

REMARKS

In the Final Office Action, dated November 17, 2003, claims 1-56 were rejected. Independent claims 1, 14, 17, and 33, as well as dependent claims 4, 20, and 34, have been amended. The applicant respectfully requests reconsideration of the application in view of the following remarks.

I. Lack of Anticipation by the Finley et al. Reference

Claims 1-5, 7, 9-15, 17-22, 24-29, 31, 33-35, 37-42, 44, and 47-48 were rejected under 35 U.S.C. § 102(e) as being anticipated by Finley et al., U.S. Patent No. 6,442,448 ("*Finley*"). Independent claims 1, 14, 17, 33, and 47 have been amended. Among other things, the Examiner states that *Finley* discloses discloses "a server module (see col. 3, lines 15-20), connected to the in-store controller, comprising at least one of a transmitter and a receiver (note, for example, the use of a satellite dish and modem in figure 14);" "at least one client module (1402-1405, for example) comprising at least one of a transmitter and a receiver (838 and 839);" and "a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module (note again, for example, the satellite dish and modem of figure 14)." Contrary to the assertions in the Office Action, however, the Finley et al. reference does not disclose or suggest all of the limitation of independent claims 1, 14, 17, and 33, as amended, nor of claim 47.

Claim 1, as amended, recites "an in-store controller at a point-of-sale facility adapted to process at least one message relating to a retail refueling environment;" "an in-store controller communication module at the point-of-sale facility, connected to the in-store controller, comprising at least one of a wireless transmitter and a wireless receiver;" "at least one client module comprising at least one of a wireless transmitter and a wireless receiver;" "at least one service device, connected to the at least one client module, adapted to process the at least one message;" and "a wireless communication link adapted to communicate the at least one message between the at least one of a wireless transmitter and a wireless receiver in the communication

module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module.”

The Applicant has amended claim 1 to include an in-store controller and an in-store controller communication module, both of which are recited as located at the retail refueling facility. Additionally, the wireless link recited by claim 1 is recited as “at the retail refueling facility.” Accordingly, the Applicant respectfully submits that the “use of a satellite dish and modem in Figure 14” as noted by the Final Office Action fails to disclose, teach or suggest the claimed limitations of an in-store controller and an in-store communication module, each with at least one of a wireless transmitter and wireless receiver, and each located at the retail refueling facility. The satellite dish noted by the examiner is shown to communicate only with the DMS Host Server, which is depicted as separate from the DMS enabled site, and therefore not located at the retail refueling facility. See *Finley*, Fig. 14. Additionally, the message recited in amended claim 1 is communicated between the in-store controller communication module and the client module via the at least one wireless transmitter or receiver of each, all of which are located at the retail refueling facility.

The Applicant respectfully submits that the Final Office Action fails to indicate anything in *Finley* that discloses, teaches or suggests “a wireless communication link at the retail refueling facility adapted to communicate the at least one message between the at least one of a wireless transmitter and a wireless receiver in the communication module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module.” According to the Final Office Action, the only structure disclosed by *Finley* that includes a wireless link adapted to communicate the at least one message between the in-store controller and the client module is the satellite dish and modem of the Distribution Management System (DMS) Enabled Site (see Figure 14). Additionally, as disclosed by *Finley*, the satellite dish and modem do not constitute a wireless link at the retail refueling facility “adapted to communicate the at least one message between the in-store controller and the client module” as recited in claim 1. Therefore, *Finley* fails to teach or suggest the subject matter of claim 1, and its dependent claims 2-13 are allowable over the cited art.

Claim 14, as amended, recites "an indoor payment terminal (IPT) at a retail refueling facility adapted to process at least one message relating to a retail refueling environment;" "an IPT communication module at the retail refueling facility, connected to the IPT, comprising at least one of a wireless transmitter and a wireless receiver;" "at least one client module at the retail refueling facility comprising at least one of a wireless transmitter and a wireless receiver;" "at least one peripheral device, connected to the at least one client module, adapted to process the at least one message;" and "a wireless communication link adapted to communicate the at least one message between the at least one of a wireless transmitter and a wireless receiver in the communication module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module."

Similar to the discussion above in connection with claim 1, *Finley* fails to teach or suggest an IPT communication module at the retail refueling facility coupled to the IPT that includes at least a wireless transmitter or a wireless receiver. *Finley* also fails to disclose a client module at the retail refueling facility that includes at least a wireless transmitter or wireless receiver separate from the IPT communication module discussed above. Furthermore, the reference fails to teach or suggest a wireless communication link at the retail refueling facility that is adapted to communicate a message between the wireless transmitter or wireless receiver of the IPT communication module and the wireless transmitter or wireless receiver of the client module. Thus, *Finley* fails to teach or suggest the claim limitations of claim 14, and independent claim 14 and its dependent claims 15 and 16 are allowable over the cited art.

Amended claim 17 recites "a POS communication module at the retail refueling facility, connected to the POS network controller, comprising at least one of a wireless transmitter and a wireless receiver;" "at least one client module at the retail refueling facility comprising at least one of a wireless transmitter and a wireless receiver;" and "a wireless communication link at the retail refueling facility adapted to communicate the at least one message between the at least one of a wireless transmitter and a receiver in the POS communication module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module." Similar to the discussion above with respect to claims 1 and 14, *Finley* fails to teach or suggest a POS

communication module at the retail refueling facility that includes at least a wireless transmitter or wireless receiver. Additionally, *Finley* fails to teach or suggest a client module at the retail refueling facility that includes at least one of a wireless transmitter or wireless receiver separate from the POS communication module discussed above. Furthermore, *Finley* fails to teach or suggest a wireless link at the retail refueling facility that is adapted to communicate a message between the POS communication module and the client module. Thus, *Finley* fails to teach or suggest the claim limitations of claim 17 as amended, and independent claim 17 and its dependent claims 18-32 are allowable over the cited art.

Claim 33 recites "a dispenser controller communication module at the retail refueling facility, connected to the dispenser controller device, comprising at least one of a wireless transmitter and a wireless receiver;" "at least one client module at the retail refueling facility comprising at least one of a wireless transmitter and a wireless receiver;" and "a wireless communication link at the retail refueling facility adapted to communicate the at least one message between the at least one of a wireless transmitter and a wireless receiver in the dispenser controller communication module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module."

Similar to the discussion above with respect to claims 1, 14, and 17, *Finley* fails to teach or suggest a dispenser controller communication module at the retail refueling facility that includes at least a wireless transmitter or wireless receiver. Additionally, *Finley* fails to disclose a client module at the retail refueling facility that includes at least a wireless transmitter or wireless receiver separate from the dispenser controller communication module. Furthermore, *Finley* fails to teach or suggest a wireless communication link at the retail refueling facility adapted to communicate a message between the dispenser controller communication module and the client module. Thus, *Finley* fails to teach or suggest the limitations of claim 33, as amended. Accordingly, claim 33 and its dependent claims 34-46 are allowable over *Finley*.

Claim 47, as amended, recites "generating at least one message formatted according to a protocol link layer for communication of at least one data packet, the at least one data packet comprising information relating to a retail refueling environment;" "transmitting the at least one

message over a wireless communication link within the retail refueling environment;” “receiving the at least one message via the wireless communication link within the retail refueling environment;” and “processing the at least one message to extract the information relating to the retail refueling environment, wherein the retail refueling environment comprises a retail refueling facility.”

The Applicant respectfully submits that the method for wireless communication recited by claim 47 is not disclosed by *Finley*. Additionally, the Applicant submits that the Final Office Action fails to specifically point out those elements of the Applicant's claim 47 that are disclosed by *Finley*. With respect to claim 47, the Final Office Action recites the following as the reasons why claim 47 is anticipated by *Finley*:

As described in Claim[]...47;

1. an in-store controller (300 or 1401) for processing at least one message relating to a retail refueling environment (see col. 3, lines 15-20);
2. a server module (see col. 3, lines 15-20), connected to the in-store controller, comprising at least one of a transmitter and a receiver (note, for example, the use of a satellite dish and modem in figure 14);
3. at least one client module (1402-1405, for example) comprising at least one of a transmitter and a receiver (838 and 839);
4. at least one service device (850) or peripheral device (362), connected to the at least one client module, for processing the at least one message (see also col. 25, lines 1-34);
5. a wireless communication link for communicating the at least one message between the at least one of a transmitter and a receiver in the server module and the at least one of a transmitter and a receiver in the at least one client module (note again, for example, the satellite dish and modem of figure 14).

Final Office Action, at 10-11.

The features alleged to be disclosed by *Finley* do not correspond to the features recited in claim 47. Accordingly, the Applicant respectfully submits that the Examiner has failed to specifically point out how the elements of the Applicant's claims are disclosed taught or suggested by *Finley*. Furthermore, *Finley* fails to teach or suggest a method that includes the limitations of claim 47. Therefore, independent claim 47 and its dependent claims 48-56 are allowable over the cited art.

In addition to the deficiencies discussed above in connection with the independent claims, *Finley* fails to teach or suggest limitations from the dependent claims. For example, the Final Office Action states that *Finley* discloses a serial interface for connecting the in-store

controller to the server module as recited in claims 4, 20, and 34. As the Applicant has previously discussed, independent claims 1, 17, and 33 have been amended to recite an in-store controller communication module, a point-of-sale communication module and a dispenser controller communication module, respectively. The service serial port 402 noted by the Final Office Action, however, is described as being used to connect a service technician's laptop for diagnostics and setup, which is entirely unrelated to connecting an in-store controller to an in-store communication module as recited in claim 4, a point-of-sale terminal to a point-of-sale communication module as recited in claim 20, or a dispenser controller to a dispenser controller communication module, as recited in claim 34.

II. Lack of Obviousness over Finley et al. in View of Dickson

In the Final Office Action, claims 6, 8, 16, 23, 30, 32, 36, 43, 45, 46, and 49-56 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Finley* in view of U.S. Patent No. 6,574,603 issued to Dickson ("*Dickson*"). All of these claims are dependent claims and thus are allowable for the same reasons as discussed above in connection with the respective independent claims from which they depend.

Dickson fails to cure the deficiencies of *Finley*. For example, *Dickson* fails to disclose "a wireless communication link at the retail refueling facility adapted to communicate the at least one message between the at least one of a wireless transmitter and a wireless receiver in the in-store communication module and the at least one of a wireless transmitter and a wireless receiver in the at least one client module" as recited by independent claim 1. *Dickson* also fails to disclose 1) the similar limitation of claim 14 that includes a wireless link between the indoor payment terminal communication module and a client module; 2) the similar limitation of claim 17 that includes a wireless link between a point-of-sale communication module and a client module; and 3) the similar limitation of claim 33 that includes a wireless link between a dispenser controller communication module and a client module. Moreover, although the Final Office Action generally asserts that it would have been obvious to combine *Finley* and *Dickson*, to provide a secure and efficient means of interface with customers, such an asserted motivation

fails to provide the necessary suggestion to combine the specific teachings of the references to arrive at the limitations of the claims.

For example, neither of the references provide any suggestion to communicate a message comprising fuel tank level information between a transmitter and/or receiver in an in-store communication module connected to an in-store controller and a transmitter and/or receiver in a client module connected to a service device. *Dickson* merely discloses generally providing vehicle fuel tank information from a vehicle to a fuel dispenser or fuel station store. *Finley* discloses a wireless link between a DMS enabled site and an off-site DMS host server. All of the communication disclosed by claim 8 is between a client module and an in-store controller communication module, both of which are located at the retail refueling facility. The cited motivation/suggestion of providing a secure and efficient means of interface with customers does not apply to communications between the in-store controller communication module and the client module recited by claim 8. Therefore, even if *Finley* and *Dickson* disclose wireless communication, neither reference, either alone or in combination, teaches or suggests the wireless link recited by the Applicant's independent system claims.

With respect to claims 6, 16, 23, and 36, neither reference suggests using a spread spectrum communication link to communicate a message between a communication module and a client module, as claimed. With respect to claims 30 and 32, neither reference suggests using a radio frequency identification system (RFID) controller connected to a POS communication module that communicates via a wireless communication link with a client module. With respect to claims 43 and 46, neither reference suggests a wireless communication link adapted to communicate between a transmitter and/or receiver in a communication module connected to a dispenser controller device and a transmitter and/or receiver in a client module connected to a dispenser peripheral. Accordingly, the applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn.

The Applicant notes the statement in the Final Office Action relating to wireless communication as a functional equivalent of the communication used in either *Finley* or *Dickson*. For support of this proposition, the Examiner states that U.S. Patent No. 6,527,176 B2

issued to *Baric* indicates that such a communications connection can be either wired or wireless. However, the Applicant respectfully submits that the described communication in *Baric* that may be wired or wireless is communication between the controller/interface and the central facility. *Baric*, col. 3, ll. 27-31. However, *Baric* also discloses that the central facility is "remotely located." *Baric*, col. 2, ll. 45-46. Furthermore, *Baric* teaches that the connections between the dispensers and the controller interface are electrical. *Baric*, col. 3, ll. 25-26

The Examiner states that "nowhere in Applicant's specification is there any mention of anything regarding the criticality of the wireless components being part of any particular portion of the system." However, the Applicant respectfully submits that it is unclear how the criticality of wireless components being part of any particular portion is pertinent to patentability. In any event, the claims are believed to be allowable based on the remarks set forth above.

The Examiner also states that U.S. Patent No. 6,397,259 B1 issued to Lincke ("*Lincke*") discloses that "the internet could be replaced by any communications network." Final Office Action, at 11. Contrary to the Examiner's assertions, however, the internet or communications network 190 disclosed by *Lincke* does not facilitate communication between various elements where all elements are located at a retail refueling facility, as recited by the Applicant's independent system claims. Accordingly, the Applicant respectfully submits that not only does *Lincke* fail to teach or suggest the limitations of the Applicant's claims, but also that *Lincke* fails to provide any motivation to combine a wireless network with any of the claimed systems of the Applicant's retail refueling environment.

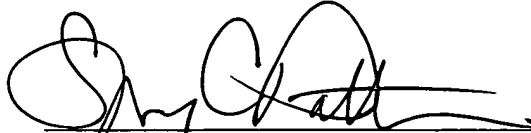
In view of the foregoing amendments and remarks, the Applicant submits that the application is in condition for allowance and respectfully requests a Notice to that effect. Enclosed is an \$880.00 check for the Request for Continued Examination fee and the one-month extension fee. No other fee is believed to be due. Please apply any other charges or credits to deposit account 06-1050.

Applicant : David Kenneth Blanchard
Serial No. : 09/911,570
Filed : July 23, 2001
Page : 20 of 20

Attorney's Docket No.: 15828-058001 / PE-00-012

Respectfully submitted,

Date: 3/17/04

A handwritten signature in black ink, appearing to read 'Spencer C. Patterson', written over a horizontal line.

Spencer C. Patterson
Reg. No. 43,849

Fish & Richardson P.C.
5000 Bank One Center
1717 Main Street
Dallas, Texas 75201
Telephone: (214) 292-4082
Facsimile: (214) 747-2091

90066709.doc